

§ 1.1840

use criteria that subject qualified individuals with disabilities to discrimination on the basis of disability.

(6) The Commission may not administer a licensing or certification program in a manner that subjects qualified individuals with disabilities to discrimination on the basis of disability, nor may the Commission establish requirements for the programs or activities that subject qualified individuals with disabilities to discrimination on the basis of disability. However, the programs or activities of entities that are licensed or certified by the Commission are not, themselves, covered by this part.

(7) The Commission shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the Commission can demonstrate that making the modifications would fundamentally alter the nature of the program, service, or activity.

(c) This part does not prohibit the exclusion of persons without disabilities from the benefits of a program limited by Federal statute or Executive order to individuals with disabilities, or the exclusion of a specific class of individuals with disabilities from a program limited by Federal statute or Executive order to a different class of individuals with disabilities.

(d) The Commission shall administer programs and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.

§ 1.1840 Employment.

No qualified individual with a disability shall, on the basis of disability, be subjected to discrimination in employment under any program or activity conducted by the Commission. The definitions, requirements and procedures of section 501 of the Rehabilitation Act of 1973, 29 U.S.C. 791, as established by the Equal Employment Opportunity Commission in 29 CFR parts 1614 and 1630, as well as the procedures set forth in the Basic Negotiations Agreement Between the Federal Communications Commission and National Treasury Employees Union, as amend-

47 CFR Ch. I (10–1–03 Edition)

ed, and Subchapter III of the Civil Service Reform Act of 1978, 5 U.S.C. 7121(d), shall apply to employment in federally conducted programs or activities.

§ 1.1849 Program accessibility: Discrimination prohibited.

(a) Except as otherwise provided in § 1.1850, no qualified individual with a disability shall, because the Commission's facilities are inaccessible to, or unusable, by individuals with disabilities, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity conducted by the Commission.

(b) Individuals shall request accessibility to the Commission's programs and facilities by contacting the Commission's Section 504 Officer. Such contact may be made in the manner indicated in the FCC Section 504 Handbook. The Commission will make every effort to provide accommodations requiring the assistance of other persons (e.g., American Sign Language interpreters, communication access realtime translation (CART) providers, transcribers, captioners, and readers) if the request is made to the Commission's Section 504 Officer a minimum of five business days in advance of the program. If such requests are made fewer than five business days prior to an event, the Commission will make every effort to secure accommodation services, although it may be less likely that the Commission will be able to secure such services.

§ 1.1850 Program accessibility: Existing facilities.

(a) *General.* Except as otherwise provided in this paragraph, the Commission shall operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. This paragraph does not—

(1) Necessarily require the Commission to make each of its existing facilities accessible to and usable by individuals with disabilities;

(2) Require the Commission to take any action that it can demonstrate

Federal Communications Commission

§ 1.1851

would result in a fundamental alteration in the nature of a program or activity, or in undue financial and administrative burdens. In those circumstances where Commission personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the Commission has the burden of proving that compliance with § 1.1850(a) would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the Managing Director, in consultation with the Section 504 Officer, after considering all Commission resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action would result in such an alteration or such burdens, the Commission shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that individuals with disabilities receive the benefits and services of the program or activity.

(b) *Methods.* The Commission may comply with the requirements of this section through such means as the redesign of equipment, reassignment of services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilities, or any other methods that result in making its programs or activities readily accessible to and usable by individuals with disabilities. The Commission is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section. The Commission, in making alterations to existing buildings, shall meet accessibility requirements to the extent compelled by the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151-4157), and any regulations implementing it. In choosing among available methods for meeting the requirements of this section, the Commission shall give priority to those methods that offer programs and ac-

tivities to qualified individuals with disabilities in the most integrated setting appropriate.

(c) *Time period for compliance.* The Commission shall comply with the obligations established under this section within sixty (60) days of the effective date of this subpart, except that where structural changes in facilities are undertaken, such changes shall be made within three (3) years of the effective date of this part.

(d) *Transition plan.* In the event that structural changes to facilities will be undertaken to achieve program accessibility, the Commission shall develop, within six (6) months of the effective date of this subpart, a transition plan setting forth the steps necessary to complete such changes. The Commission shall provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the development of the transition plan by submitting comments (both oral and written). A copy of the transitional plan shall be made available for public inspection. The plan shall, at a minimum—

(1) Identify physical obstacles in the Commission's facilities that limit the accessibility of its programs or activities to individuals with disabilities;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one (1) year, identify steps that will be taken during each year of the transition period; and

(4) Indicate the official responsible for implementation of the plan.

§ 1.1851 Building accessibility: New construction and alterations.

Each building or part of a building that is constructed or altered by, on behalf of, or for the use of the Commission shall be designed, constructed, or altered so as to be readily accessible to and usable by individuals with disabilities. The definitions, requirements and standards of the Architectural Barriers Act, 42 U.S.C. 4151-4157, as established